

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 686**  
**92ND GENERAL ASSEMBLY**

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Reported from the Committee on Education April 17, 2003, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill No. 686 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

2010L.03C

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**AN ACT**

To repeal section 165.011, RSMo, and to enact in lieu thereof one new section relating to transfers between certain funds of school districts, with an emergency clause.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 165.011, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 165.011, to read as follows:

165.011. 1. The following funds are created for the accounting of all school moneys: teachers' fund, incidental fund, free textbook fund, capital projects fund and debt service fund. The treasurer of the school district shall open an account for each fund specified in this section, and all moneys received from the county school fund and all moneys derived from taxation for teachers' wages shall be placed to the credit of the teachers' fund. All tuition fees, state moneys received under sections 162.975, RSMo, and 163.031, RSMo, and all other moneys received from the state except as herein provided shall be placed to the credit of the teachers' and incidental funds at the discretion of the district board of education. The portion of state aid received by the district pursuant to section 163.031, RSMo, based upon the portion of the tax rate in the debt service or capital projects fund, respectively, which is included in the operating levy for school purposes pursuant to section 163.011, RSMo, shall be placed to the credit of the debt service fund or capital projects fund, respectively. Money received from other districts for transportation and money derived from taxation for incidental expenses shall be credited to the incidental fund. Money apportioned for free textbooks shall be credited to the free textbook fund. All money derived from taxation or received from any other source for the erection of buildings or additions thereto and the remodeling or reconstruction of buildings and the

17 furnishing thereof, for the payment of lease-purchase obligations, for the purchase of real estate,  
18 or from sale of real estate, schoolhouses or other buildings of any kind, or school furniture, from  
19 insurance, from sale of bonds other than refunding bonds shall be placed to the credit of the  
20 capital projects fund. All moneys derived from the sale or lease of sites, buildings, facilities,  
21 furnishings and equipment by a school district as authorized under section 177.088, RSMo, shall  
22 be credited to the capital projects fund. Money derived from taxation for the retirement of bonds  
23 and the payment of interest thereon shall be credited to the debt service fund which shall be  
24 maintained as a separate bank account. Receipts from delinquent taxes shall be allocated to the  
25 several funds on the same basis as receipts from current taxes, except that where the previous  
26 years' obligations of the district would be affected by such distribution, the delinquent taxes shall  
27 be distributed according to the tax levies made for the years in which the obligations were  
28 incurred. All refunds received shall be placed to the credit of the fund from which the original  
29 expenditures were made. Money donated to the school districts shall be placed to the credit of  
30 the fund where it can be expended to meet the purpose for which it was donated and accepted.  
31 Money received from any other source whatsoever shall be placed to the credit of the fund or  
32 funds designated by the board.

33         2. (1) The school board may expend from the incidental fund the sum that is necessary  
34 for the ordinary repairs of school property and an amount not to exceed the sum of expenditures  
35 for classroom instructional capital outlay, as defined by the department of elementary and  
36 secondary education by rule, in state-approved area vocational-technical schools and the greater  
37 of twenty-five percent of the guaranteed tax base for the preceding year or two and one-fourth  
38 percent of the district's entitlement for the preceding school year as established pursuant to line  
39 1 of subsection 6 of section 163.031, RSMo, as of June thirtieth of the preceding school year for  
40 classroom instructional capital outlay, including but not limited to payments authorized pursuant  
41 to section 177.088, RSMo. Any and all payments authorized under section 177.088, RSMo,  
42 except as otherwise provided in this subsection, for the purchase or lease of sites, buildings,  
43 facilities, furnishings and equipment and all other expenditures for capital outlay shall be made  
44 from the capital projects fund. If a balance remains in the free textbook fund after books are  
45 furnished to pupils as provided in section 170.051, RSMo, it shall be transferred to the teachers'  
46 fund. The board may transfer the portion of the balance remaining in the incidental fund to the  
47 teachers' fund that is necessary for the total payment of all contracted obligations to teachers.  
48 If a balance remains in the debt service fund, after the total outstanding indebtedness for which  
49 the fund was levied is paid, the board may transfer the unexpended balance to the capital projects  
50 fund. If a balance remains in the bond proceeds after completion of the project for which the  
51 bonds were issued, the balance shall be transferred from the incidental or capital projects fund  
52 to the debt service fund. After making all placements of interest otherwise provided by law, a

53 school district may transfer from the capital projects fund to the incidental fund the interest  
54 earned from undesignated balances in the capital projects fund. All other sections of the law  
55 notwithstanding, a school district may transfer from the incidental fund to the capital projects  
56 fund an amount equal to the capital expenditures for school safety and security purposes. A  
57 school district may borrow from one of the following funds: teachers' fund, incidental fund or  
58 capital projects fund, as necessary to meet obligations in another of those funds; provided that  
59 the full amount is repaid to the lending fund within the same fiscal year.

60 (2) No school district shall make any expenditure for any lease purchase obligation  
61 authorized pursuant to section 177.088, RSMo, and incurred on or after January 1, 1997, from  
62 the district's capital projects fund unless the district levies, in the current year, a tax rate in the  
63 capital projects fund which is sufficient to generate revenues equal to or greater than the amount  
64 of such expenditure and collects such revenues and credits such revenues to the capital projects  
65 fund. For the purposes of subsection 8 of this section, any expenditure made in violation of this  
66 subdivision shall be considered a transfer of funds performed in violation of this section and that  
67 amount shall be deducted from the school district's state aid calculated pursuant to section  
68 163.031, RSMo, in the school year following the year such expenditure is made.

69 3. Tuition shall be paid from either the teachers' or incidental funds.

70 4. Other provisions of law to the contrary notwithstanding, the school board of a school  
71 district that satisfies the criteria specified in subsection 5 of this section may transfer from the  
72 incidental fund to the capital projects fund the sum of:

73 (1) The amount to be expended for transportation equipment that is considered an  
74 allowable cost under state board of education rules for transportation reimbursements during the  
75 current year; plus

76 (2) Any amount necessary to satisfy obligations of the capital projects fund for  
77 state-approved area vocational-technical schools; plus

78 (3) An amount not to exceed the greater of:

79 (a) The guaranteed tax base for the preceding year; or

80 (b) Nine percent of the district's entitlement for the preceding school year as established  
81 pursuant to line 1 of subsection 6 of section 163.031, RSMo, as of June thirtieth of the preceding  
82 school year; provided that transfer amounts authorized pursuant to this subdivision may only be  
83 transferred by a resolution of the school board approved by a majority of the board members in  
84 office when the resolution is voted upon and identifying the specific capital projects to be funded  
85 by the transferred funds and an estimated expenditure date; and provided that if a district did not  
86 maintain compliance with the requirements of section 165.016 the preceding year without  
87 recourse to a waiver for that year or a base year adjustment received that year or a fund balance  
88 exclusion unless the fund balance exclusion had also been used the second preceding year, the

89 transfer amount pursuant to this subdivision may be transferred only to the extent required to  
90 meet current year obligations of the capital projects fund.

91 5. In order to transfer funds pursuant to subsection 4 of this section, a school district  
92 shall:

93 (1) Meet the minimum criteria for state aid and for increases in state aid for the current  
94 year established pursuant to section 163.021, RSMo;

95 (2) Not incur a total debt, including short-term debt and bonded indebtedness in excess  
96 of fifteen percent of the guaranteed tax base for the preceding payment year multiplied by the  
97 number of resident and nonresident eligible pupils educated in the district in the preceding year;

98 (3) Set tax rates pursuant to section 164.011, RSMo;

99 (4) First apply any voluntary rollbacks or reductions to the total tax rate levied to the  
100 teachers' and incidental funds;

101 (5) In order to be eligible to transfer funds for paying lease purchase obligations:

102 (a) Incur such obligations, except for obligations for lease purchase for school buses,  
103 prior to January 1, 1997;

104 (b) Limit the term of such obligations to no more than twenty years;

105 (c) Limit annual installment payments on such obligations to an amount no greater than  
106 the amount of the payment for the first full year of the obligation, including all payments of  
107 principal and interest, except that the amount of the final payment shall be limited to an amount  
108 no greater than two times the amount of such first-year payment;

109 (d) Limit such payments to leasing nonathletic, classroom, instructional facilities as  
110 defined by the state board of education through rule; and

111 (e) Not offer instruction at a higher grade level than was offered by the district on July  
112 12, 1994.

113 6. A school district shall be eligible to transfer funds pursuant to subsection 7 of this  
114 section if:

115 (1) Prior to August 28, 1993:

116 (a) The school district incurred an obligation for the purpose of funding payments under  
117 a lease purchase contract authorized under section 177.088, RSMo;

118 (b) The school district notified the appropriate local election official to place an issue  
119 before the voters of the district for the purpose of funding payments under a lease purchase  
120 contract authorized under section 177.088, RSMo; or

121 (c) An issue for funding payments under a lease purchase contract authorized under  
122 section 177.088, RSMo, was approved by the voters of the district; or

123 (2) Prior to November 1, 1993, a school board adopted a resolution authorizing an action  
124 necessary to comply with subsection 9 of section 177.088, RSMo. Any increase in the operating

125 levy of a district above the 1993 tax rate resulting from passage of an issue described in  
126 paragraph (b) of subdivision (1) of this subsection shall be considered as part of the 1993 tax rate  
127 for the purposes of subsection 1 of section 164.011, RSMo.

128 7. Prior to transferring funds pursuant to subsection 4 of this section, a school district  
129 may transfer, pursuant to this subsection, from the incidental fund to the capital projects fund an  
130 amount as necessary to satisfy an obligation of the capital projects fund that satisfies at least one  
131 of the conditions specified in subsection 6 of this section, but not to exceed its payments  
132 authorized under section 177.088, RSMo, for the purchase or lease of sites, buildings, facilities,  
133 furnishings, equipment, and all other expenditures for capital outlay, plus the amount to be  
134 expended for transportation equipment that is considered an allowable cost under state board of  
135 education rules for transportation reimbursements during the current year plus any amount  
136 necessary to satisfy obligations of the capital projects fund for state-approved area  
137 vocational-technical schools. A school district with a levy for school purposes no greater than  
138 the minimum levy specified in section 163.021, RSMo, and an obligation in the capital projects  
139 fund that satisfies at least one of the conditions specified in subsection 6 of this section, may  
140 transfer from the incidental fund to the capital projects fund the amount necessary to meet the  
141 obligation plus the transfers pursuant to subsection 4 of this section.

142 8. Beginning in the 1995-96 school year, the department of elementary and secondary  
143 education shall deduct from a school district's state aid calculated pursuant to section 163.031,  
144 RSMo, an amount equal to the amount of any transfer of funds from the incidental fund to the  
145 capital projects fund performed during the previous year in violation of this section; except that  
146 the state aid shall be deducted in equal amounts over the five school years following the school  
147 year of an unlawful transfer provided that:

148 (1) The district shall provide written notice to the state board of education, no later than  
149 June first of the first school year following the school year of the unlawful transfer, stating the  
150 district's intention to comply with the provisions of subdivisions (1) to (4) of this subsection and  
151 have state aid deducted for that unlawful transfer over a five-year period;

152 (2) On or before September first of the second school year following the school year of  
153 the unlawful transfer, the district shall approve an increase to the district's operating levy for  
154 school purposes to the greater of: two dollars and seventy-five cents per one hundred dollars  
155 assessed valuation or the levy which produces an increase in total state and local revenues, as  
156 determined by the department, in comparison to the first school year following the school year  
157 of the unlawful transfer which is equal to or greater than the amount of state aid to be deducted  
158 pursuant to this subsection each school year for such unlawful transfer, provided that increases  
159 required pursuant to this subdivision for subsequent unlawful transfers shall be made in  
160 comparison to the latter tax rate described in this subdivision;

(3) During each school year after the school year in which the operating levy is increased pursuant to subdivision (2) of this subsection and in which state aid is deducted pursuant to subdivisions (1) to (4) of this subsection, the district shall maintain an operating levy for school purposes which produces total state and local revenues for the district which are no less than the total state and local revenues produced by the levy required pursuant to subdivision (2) of this subsection;

(4) During each school year state aid is deducted pursuant to subdivisions (1) to (4) of this subsection except for the 1998-99 school year, the district shall maintain compliance with the requirements of section 165.016 without any recourse to waivers or base-year adjustments and without the option to demonstrate compliance based upon the district's fund balances; and

(5) If, in any school year state aid is deducted pursuant to subdivisions (1) to (4) of this subsection, the district fails to comply with any requirement of subdivisions (1) to (4) of this subsection, the full, remaining amount of state aid to be deducted pursuant to this subsection shall be deducted from the district's state aid payments by the department during such school year.

9. On or before June 30, 1999, a school district may transfer to the capital projects fund from the balances of the teachers' and incidental funds any amount, but only to the extent that the amount transferred is equal to or less than the amount that the teachers' and incidental funds' unrestricted balances on June 30, 1995, exceeded eight percent of expenditures from the teachers' and incidental funds for the year ending June 30, 1995. 10. (1) Other provisions of law to the contrary notwithstanding, a school district which satisfies all conditions specified in subdivision (2) of this subsection may make the transfer allowed in subdivision (3) of this subsection.

(2) To make the transfer allowed under subdivision (3) of this subsection, a school district shall:

(a) Have a membership count for school year 1997-98 which is at least sixteen percent greater than the district's membership count for the 1991-92 school year; and

(b) Have passed a full waiver of Proposition C tax rate rollback pursuant to section 164.013, RSMo, or approved an increase to the district's tax rate ceiling on or after June 1, 1994; and

(c) Be in compliance or have paid all penalties required pursuant to section 165.016 for the 1994-95, 1995-96 and 1996-97 school years without waiver or adjustment of the base school year certificated salary percentage; and

(d) After all transfers, have a remaining balance on June 30, 1998, in the combined teachers' and incidental funds which is no less than ten percent of the combined expenditures from those funds for the 1997-98 school year.

197 (3) A district which satisfies all of the criteria specified in paragraphs (a) to (d) of  
198 subdivision (2) of this subsection may, on or before June 30, 1998, make a one-time combined  
199 transfer from the teachers' and incidental funds to the capital projects fund of an amount no  
200 greater than the sum of the following amounts:

201 (a) The product of the district's equalized assessed valuation for 1994 times the  
202 difference of the district's equalized operating levy for school purposes for 1994 minus the  
203 district's equalized operating levy for school purposes for 1993;

204 (b) The product of the district's equalized assessed valuation for 1995 times the  
205 difference of the district's equalized operating levy for school purposes for 1995 minus the  
206 district's equalized operating levy for school purposes for 1993;

207 (c) The product of the district's equalized assessed valuation for 1996 times the  
208 difference of the district's equalized operating levy for school purposes for 1996 minus the  
209 district's equalized operating levy for school purposes for 1993;

210 (d) The product of the district's equalized assessed valuation for 1997 times the  
211 difference of the district's equalized operating levy for school purposes for 1997 minus the  
212 district's equalized operating levy for school purposes for 1993; provided that the remaining  
213 balance in the incidental fund shall be no less than twelve percent of the total expenditures  
214 during that fiscal year from the incidental fund.

215 (4) A district which makes a transfer pursuant to subdivision (3) of this subsection shall  
216 be subject to compliance with the requirements of section 165.016 for fiscal years 1999, 2000  
217 and 2001, without the option to request a waiver or an adjustment of the base school year  
218 certificated salary percentage.

219 (5) Other provisions of section 165.016 to the contrary notwithstanding, the transfer of  
220 an amount of funds from either the teachers' or incidental fund to the capital projects fund  
221 pursuant to subdivision (3) of this subsection shall not be considered an expenditure from the  
222 teachers' or incidental fund for the purpose of determining compliance with the provisions of  
223 subsections 1 and 2 of section 165.016.

224 11. In addition to other transfers authorized under subsections 1 to 9 of this section, a  
225 district may transfer from the teachers' and incidental funds to the capital projects fund the  
226 amount necessary to repay costs of one or more guaranteed energy savings performance contracts  
227 to renovate buildings in the school district; provided that the contract is only for energy  
228 conservation measures, as defined in section 640.651, RSMo, and provided that the contract  
229 specifies that no payment or total of payments shall be required from the school district until at  
230 least an equal total amount of energy and energy-related operating savings and payments from  
231 the vendor pursuant to the contract have been realized by the school district.

232 12. In addition to other transfers authorized pursuant to subsections 1 to 9 of this section,

any school district that has undergone at least a twenty-percent increase in assessed valuation from the preceding year because of the construction of a power plant may make a one-time transfer on the basis of each such increase, to the capital projects fund from the balances of the teachers' and incidental funds' unrestricted balances in an amount equal to twice the amount of such transfer otherwise permitted pursuant to this section for the year in which such one-time transfer is made; provided that such transfer shall be made prior to the end of the second fiscal year following the fiscal year in which the increase in assessed valuation is effective. Such one-time transfer may be made without regard to whether the transferred funds are used for current expenditures. No transfer shall be made pursuant to this subsection after June 30, 2003.

**13. A school district may transfer unrestricted funds from the capital projects fund to the incidental fund in any year in which that year's June thirtieth combined incidental and teachers funds unrestricted balance compared to the combined incidental and teachers funds expenditures would be less than ten percent without such transfer.**

**14. School districts that have issued qualified zone academy bonds pursuant to 26 U.S.C. Section 1397E, also known as the Taxpayers Relief Act of 1997, prior to December 31, 2002, and have placed bond proceeds into an interest-bearing account in the capital projects fund without meeting the requirement to set a levy in the debt service fund as required in section 164.161, RSMo, shall be permitted to make transfers to the debt service fund in an amount up to but not exceeding the original amount of bond proceeds invested, under the following conditions:**

**(1) The district has an unrestricted balance in the capital projects fund equivalent to the original amount of bond proceeds invested that may be transferred to the debt service fund; or**

**(2) If the district does not have sufficient unrestricted funds in the capital projects fund pursuant to subdivision (1) of this subsection, then additional funds may be transferred from the incidental fund to the debt service fund up to the amount needed to equal the original amount of bond proceeds invested, but such transfer in combination with other district expenditures may not reduce the ending fund balance in the combined teachers' and incidental funds below ten percent balance of the expenditures in those funds;**

**(3) If the transfers allowed pursuant to subdivisions (1) and (2) of this subsection are not sufficient to equal the original amount of bond proceeds invested, the district shall provide an annual tax in the debt service fund sufficient to generate the amount required within five years from the effective date of this section;**

**(4) The district shall report the following information as prescribed by the department of elementary and secondary education on the annual secretary of the board**



269 report required to be submitted pursuant to section 162.821, RSMo, for the fiscal year  
270 ending June 30, 2003:

271 (a) Documentation of the establishment of the local academy/business partnership  
272 and the ten percent business match for qualified zone academy bonds pursuant to 26  
273 U.S.C. Section 1397E;

274 (b) A detailed schedule of completed and planned expenditures for the projects as  
275 specified in the department-approved qualified zone academy bond application, identified  
276 by building with certification by the district that a minimum of ninety-five percent of the  
277 voter-approved qualified zone academy bonds will be expended within three years from  
278 the date of the sale of bonds; and

279 (c) The business name, office location, state of incorporation, and names of any  
280 representative of the bonding institution and bond counsel, if applicable, who handled the  
281 qualified zone academy bond issuance, including all individuals who signed  
282 correspondence to or made presentations to the school district concerning such bonds; and  
283 providing the amount of fees or costs of issuance paid to the bonding institution and bond  
284 counsel stated as a whole dollar amount and as a percentage of the qualified zone academy  
285 bond;

286 (5) Any transfer made pursuant to subdivision (1) or (2) of this subsection shall be  
287 reported on the district's fiscal year 2003 financial records;

288 (6) If the district fails to provide the information in the manner prescribed by the  
289 department on the annual secretary of the board report by December 31, 2003, the amount  
290 of unrestricted fund balance transferred into the debt service fund from the capital  
291 projects fund or incidental fund shall be returned to the original fund from which the  
292 transfer was made and an annual tax established in the debt service fund sufficient to pay  
293 the principal and interest of the bonds as they fall due.

294 15. On or before August 31, 2005, a school district located in a county of the third  
295 classification without a township form of government and with more than thirty-seven  
296 thousand two hundred but less than thirty-seven thousand three hundred inhabitants and  
297 in a county of the third classification without a township form of government and with  
298 more than nine thousand four hundred fifty but less than nine thousand five hundred fifty  
299 inhabitants shall be permitted to make a one-time additional transfer from the incidental  
300 fund to the capital projects fund in an appropriate amount for the specific purpose of  
301 completing a sewer project in order to comply with regulations established by the  
302 department of natural resources.

303 16. On or before August 31, 2005, a school district with an assessed valuation of at  
304 least thirty-one million dollars and less than thirty-two million dollars located in a county

305 **of the third classification without a township form of government and with more than**  
306 **thirty-one thousand but less than thirty-one thousand one hundred inhabitants shall be**  
307 **permitted to make a one-time additional transfer from the incidental fund to the capital**  
308 **projects fund in an appropriate amount for the specific purpose of improving the library**  
309 **media and technology center that serves the district's high school and middle school.**

Section B. Because of the need to adequately fund the public schools of this state, section  
2 A of this act is deemed necessary for the immediate preservation of the public health, welfare,  
3 peace and safety, and is hereby declared to be an emergency act within the meaning of the  
4 constitution, and section A of this act shall be in full force and effect upon its passage and  
5 approval.